



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

April 24 2003

Ms. Tenley A . Aldredge  
Assistant County Attorney  
Travis County  
P. O. Box 1748  
Austin, Texas 78767

OR2003-2754

Dear Ms. Aldredge:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 180027.

The Travis County Community Supervision & Corrections Department (the "department") received a request for records pertaining to a specified person. You state that you have made some responsive information available to the requestor. You claim, however, that the remaining requested information is not subject to disclosure under the Public Information Act (the "Act"). In the alternative, you claim that the remaining requested information is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.122 of the Government Code. We have considered your arguments and reviewed the submitted information.

We note that the Act generally requires the disclosure of information maintained by a "governmental body." While the Act's definition of a "governmental body" is broad, it specifically excludes the judiciary. *See* Gov't Code § 552.003(1)(B). In determining whether a governmental entity falls within the judiciary exception of the Act, this office looks to whether the entity in question is performing a judicial function or acting in a purely administrative role. *See* Open Records Decision No. 646 at 2-3 (1996) (citing *Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.--San Antonio 1983, no writ)). In Open Records Decision No. 646 (1996), this office determined that a community supervision and corrections department holds probationers' records on behalf of the judiciary as an agent of the judiciary. *See* Open Records Decision Nos. 646 at 5 (1996); *see also* Open Records Decision No. 236 (1980) (records of adult probation office indicating whether probationers are complying with

terms of probation are records of judiciary not subject to Act). You state that the submitted probation records are maintained by the department at the direction of the district court as part of the court's judicial function. Based on our review of your representations and the submitted information, we agree that the entirety of the information is held by the department on behalf of the judiciary and is, therefore, not subject to disclosure under the Act.<sup>1</sup> Consequently, we need not address your claimed exceptions to disclosure regarding the submitted information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

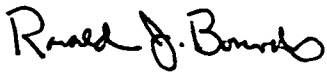
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<sup>1</sup> We note that the release of the requested information is within the discretion of the court, acting through its agent, the Travis County Community Supervision and Corrections Department. See Open Records Decision No. 646 at 4 n. 3 (1996) (citing Open Records Decision No. 236 at 2-3 (1980)).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Ronald J. Bounds  
Assistant Attorney General  
Open Records Division

RJB/lmt

Ref: ID# 180027

Enc. Submitted documents

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(w/o enclosures)